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10/789,597	02/27/2004	Kirt Martin	STE01 P-1158	9061

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EXAMINER

HAWK, NOAH CHANDLER

ART UNIT PAPER NUMBER

3637

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,597

Applicant(s)

MARTIN ET AL.

Examiner

Noah C. Hawk

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 20-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/27/04 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/16/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Claims 1-19 in the reply filed on 10/31/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 20-63 are withdrawn from further consideration as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 3 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite the limitation "a lip portion" on the first flange. The specification does not disclose a first flange having a lip portion (see page 10 of the specification, where the second member with a second flange has a lip).

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5. Claims 6, 9, and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite the limitations "a first upper flange" and "a second upper flange." The specification does not disclose a first flange and a first upper flange, both extending horizontally along the first planar portion, nor does it disclose a second flange and a second upper flange, both extending horizontally along the second planar portion.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 10 recites the limitation "the first upper flange and the second upper flange" in lines 1 and 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 18 recites the limitation "the first upper flange and the second upper flange" in lines 1 and 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Specification

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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10. The specification is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification and the claims don't correspond. The first flange (having no lip portion) described in the specification becomes the second flange portion in the claims and the second flange portion (having a lip portion) becomes the first flange portion in the claims.

Drawings

11. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "lip portion extending from the second portion and towards the first planar portion" of Claim 3 and Claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

12. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

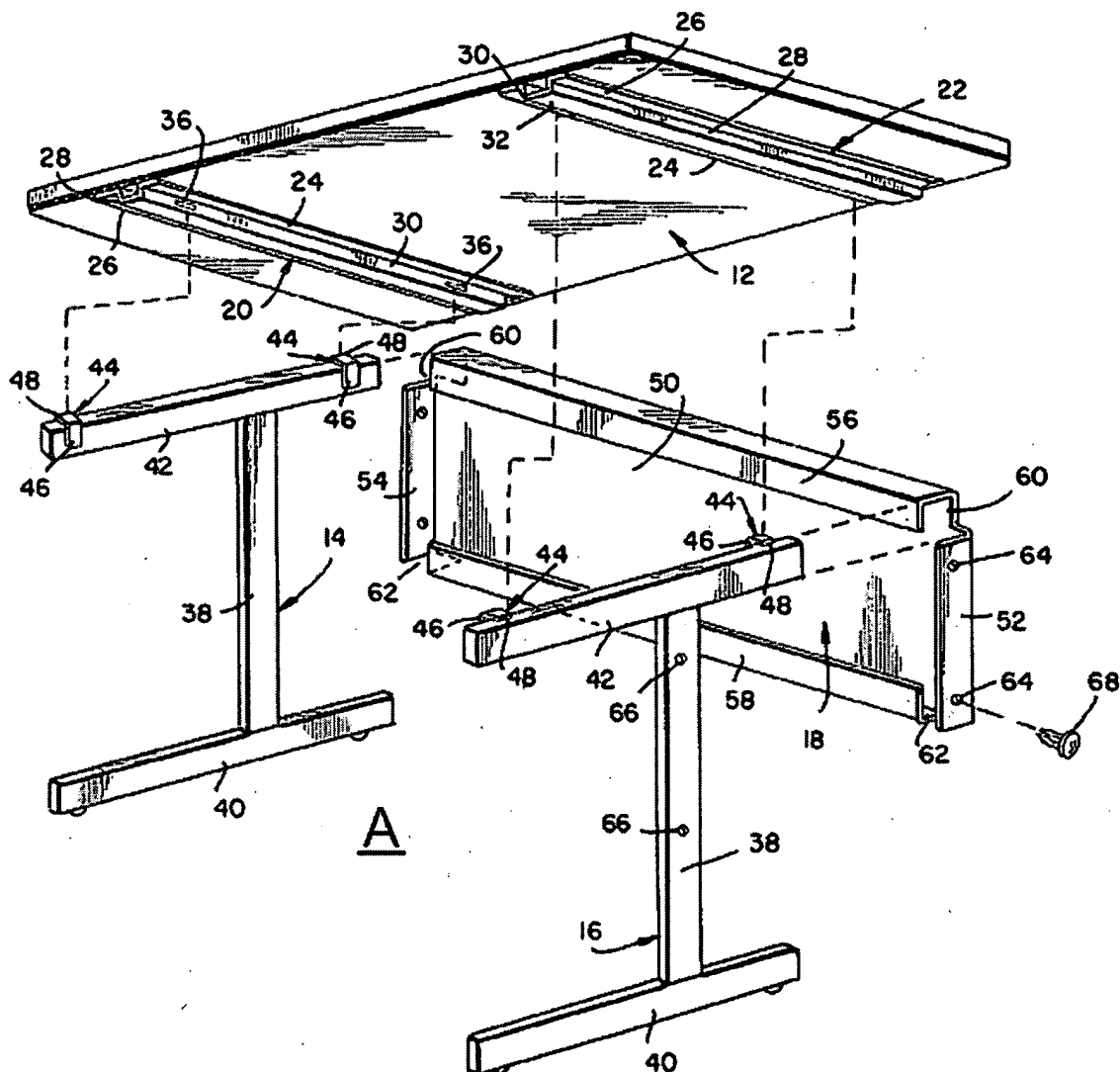
13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayles in US Patent 4287837 in view of Diamond et al. in US Patent 3698329.

a. Regarding Claim 1, Bayles teaches a privacy screen (18) for use within a desk assembly having a worksurface (12) and an open span (A, best seen in Bayles, Figure 2) located below the worksurface comprising a first member (18) having a generally planar first portion (best seen in Bayles, Figure 2), a first flange (58) extending longitudinally along the first planar portion, and a first end

(52) and a second end (54) adapted to be secured to a desk assembly within an open span (A) located below a worksurface (12) of the desk assembly. Bayles does not teach a telescopically adjusting second portion of the privacy screen. Diamond et al. teach a panel having two members (20, 22), the first member (22) having a generally planar first portion (best seen in Diamond et al., Figure 1), a first flange (36) extending longitudinally along the first planar portion and a second member (20) having a generally planar second portion (best seen in Diamond et al., Figure 1), a second flange (32) extending longitudinally along the second planar portion and configured to telescopically receive the first flange of the first member therein such that planar second portion is substantially proximate the planar first portion thereby allowing adjustment of an overall length of the panel extending between the first end and the second end. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a telescopically adjusting panel as taught by Diamond et al. in order to allow the user to mount the panel on a diverse selection of desks with different span sizes.

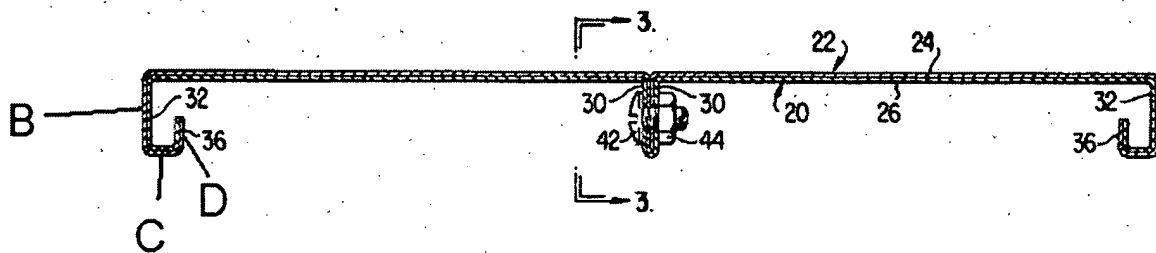


Bayles, Figure 2

- b. Regarding Claim 2, Bayles further teaches that the first flange (58) is substantially C-shaped (best seen in Bayles, Figure 2).
- c. Regarding Claim 3, Diamond et al. further teach that the first flange (36) includes a first portion (B) extending from and substantially orthogonal to the first

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planar portion, a second portion (C) extending from and substantially orthogonal to the first portion, and a lip portion (D) extending from the second portion and towards the first planar portion. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a flange with three portions as taught by Diamond et al. in order to allow the panel to be folded into shape.

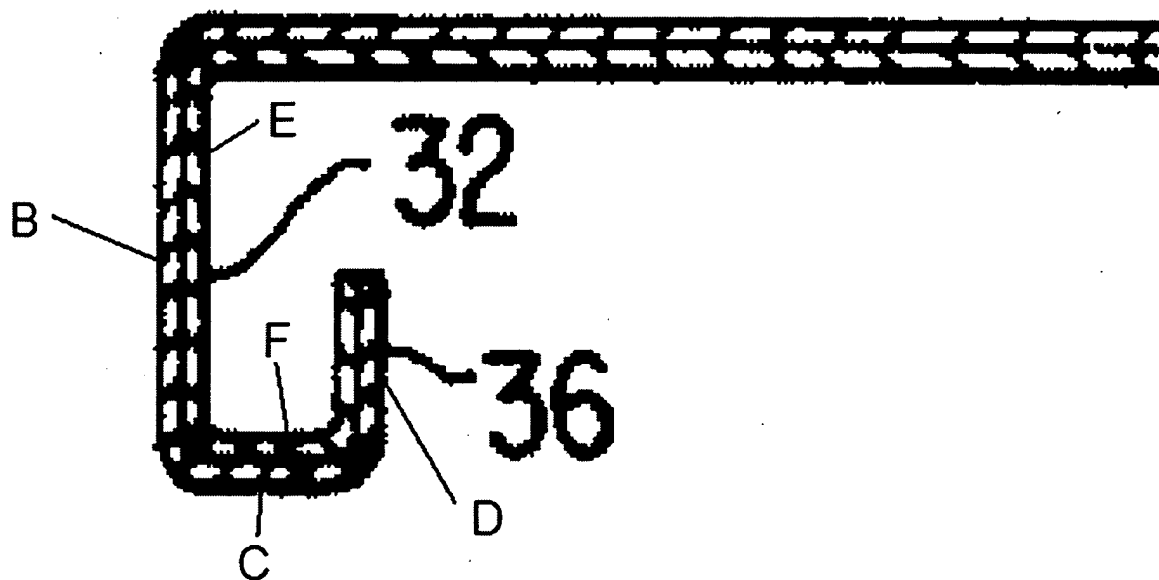


Diamond, et al., Figure 2

d. Regarding Claim 4, Diamond et al. further teach that the second flange (32) is substantially C- shaped (best seen in Diamond et al., Figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a C-shaped second flange as taught by Diamond et al. in order to more securely fit into the receiving portion of the first flange.

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e. Regarding Claim 5, Diamond et al. further teach that the second flange (32) includes a first portion (E, best seen in Diamond et al., Figure 2 Detail, below) extending from and substantially orthogonal to the second planar portion and a second portion (F) extending from and substantially orthogonal to the second portion of the second flange, and wherein the second portion (F) of the second flange is telescopingly received between the second portion (C) of the first flange and the lip portion (D) of the first flange (Note: the second portion of the second flange is considered received by the first flange as it resides in the space defined by the second portion and the lip portion). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a two-portion second flange as taught by Diamond et al. in order to allow the panel to be folded into shape.



Diamond et al., Figure 2 (Detail)

f. Regarding Claim 6, Diamond et al. further teach a first upper flange (34) extending longitudinally along the first planar portion and a second upper flange (30) extending longitudinally along the second planar portion, wherein the first upper flange and the second upper flange are substantially proximate to one another when the first member and the second member are telescopingly assembled (best seen in Diamond et al., Figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using upper flanges as taught by Diamond et al. in order to provide a more secure fit between the two panels on the top edge.

g. Regarding Claim 7, Diamond et al., further teach that at least a select one of the first upper flange and the second upper flange includes at least one aperture (38, 40) extending therethrough that is adapted to receive a fastener. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using apertures in the upper flanges as taught by Diamond et al. in order to provide an alternate mounting means on the top edge. Please note that the phrase "for securing the privacy screen to the worksurface" is considered functional language and is given very little patentable weight.

h. Regarding Claim 8, Bayles further teaches that at least a selected one of the first end and the second end includes an end flange (52) that includes at least one aperture (64) extending therethrough that is adapted to receive a fastener for securing the privacy screen to the desk assembly.

i. Regarding Claim 9, Diamond et al. further teach a first upper flange (34) extending longitudinally along the first planar portion and a second upper flange (30) extending longitudinally along the second planar portion, wherein the first upper flange and the second upper flange are substantially proximate to one another when the first member and the second member are telescopically assembled (best seen in Diamond et al., Figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using upper flanges as taught by Diamond et al. in order to provide a more secure fit between the two panels on the top edge.

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j. Regarding Claim 10, Diamond et al., further teach that at least a select one of the first upper flange and the second upper flange includes at least one aperture (38, 40) extending therethrough that is adapted to receive a fastener. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using apertures in the upper flanges as taught by Diamond et al. in order to provide an alternate mounting means on the top edge. Please note that the phrase "for securing the privacy screen to the worksurface" is considered functional language and is given very little patentable weight.

k. Regarding Claim 11, Bayles further teaches that at least a selected one of the first end and the second end includes an end flange (52) that includes at least one aperture (64) extending therethrough that is adapted to receive a fastener for securing the privacy screen to the desk assembly.

15. Claims 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayles in US Patent 4287837 in view of Diamond et al. in US Patent 3698329.

l. Regarding Claim 12, Bayles teaches a desk assembly, comprising a worksurface (12), a first supporting member (14) supporting the worksurface, a second supporting member (16) supporting the worksurface, wherein the first supporting member and the second supporting member cooperate to define a span (A) therebetween and a privacy screen assembly, comprising a first member (18) having a generally planar first portion (best seen in Bayles, Figure 2), a first flange (58) extending longitudinally along the planar first portion, a first

end (52) adapted to be secured to the first supporting member and a second end (54) secured to the second supporting member (best seen in Bayles, Figure 1). Bayles does not teach a telescopically adjusting second portion of the privacy screen. Diamond et al. teach a panel having two members (20, 22), the first member (22) having a generally planar first portion (best seen in Diamond et al., Figure 1), a first flange (36) extending longitudinally along the first planar portion and a second member (20) having a generally planar second portion (best seen in Diamond et al., Figure 1), a second flange (32) extending longitudinally along the second planar portion and telescopically received within the first flange (best seen in Diamond et al., Figure 2) such that planar second portion is substantially proximate the planar first portion such that the first member and second member are telescopically adjusted with respect to one another to extend across an entire length of a span. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a telescopically adjusting panel as taught by Diamond et al. in order to allow the user to mount the panel on a diverse selection of desks with different span sizes.

m. Regarding Claim 13, Diamond et al. further teach that the first flange (36) of the first member (22) is substantially C-shaped (best seen in Diamond et al., Figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a C-shaped first flange as taught by Diamond et al. in order to more securely connect the two panel members.

n. Regarding Claim 14, Diamond et al. further teach that the first flange (36) of the first member (22) includes a first portion (B) extending from and substantially orthogonal to the first planar portion, a second portion (C) extending from and substantially orthogonal to the first portion, and a lip portion (D) extending from the second portion and towards the first planar portion. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a flange with three portions as taught by Diamond et al. in order to allow the panel to be folded into shape.

o. Regarding Claim 15, Diamond et al. further teach that the second flange (32) is substantially C- shaped (best seen in Diamond et al., Figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a C-shaped second flange as taught by Diamond et al. in order to more securely fit into the receiving portion of the first flange.

p. Regarding Claim 16, Diamond et al. further teach that the second flange (32) of the second member (20) includes a first portion (E, best seen in Diamond et al., Figure 2 Detail, above) extending from and substantially orthogonal to the second planar portion and a second portion (F) extending from and substantially orthogonal to the second portion of the second flange, and wherein the second portion (F) of the second flange is telescopingly received between the second portion (C) of the first flange and the lip portion (D) of the first flange (Note: the second portion of the second flange is considered received by the first flange as

it resides in the space defined by the second portion and the lip portion). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using a two-portion second flange as taught by Diamond et al. in order to allow the panel to be folded into shape.

q. Regarding Claim 17, Diamond et al. further teach a first upper flange (34) extending longitudinally along the first planar portion of the first member and a second upper flange (30) extending longitudinally along the second planar portion of the second member, wherein the first upper flange and the second upper flange are substantially proximate to one another when the first member and the second member are telescopingly assembled (best seen in Diamond et al., Figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using upper flanges as taught by Diamond et al. in order to provide a more secure fit between the two panels on the top edge.

r. Regarding Claim 18, Diamond et al., further teach that at least a select one of the first upper flange and the second upper flange includes at least one aperture (38, 40) extending therethrough that receives a fastener. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Bayles by using apertures in the upper flanges as taught by Diamond et al. in order to provide and alternate mounting means on the top edge. Please note that the phrase "thereby securing the privacy screen to the

worksurface" is considered functional language and is given very little patentable weight.

s. Regarding Claim 19, Bayles further teaches that at least a selected one of the first end and the second end includes an end flange (52) that includes at least one aperture (64) extending therethrough that receives a fastener (68) therethrough, thereby securing the privacy screen to at least a selected one of the first support member and the second support member the desk assembly.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grindle, Abrahamson, Forsyth and Alexander disclose desks with privacy panels. Kissinger discloses an expandable privacy panel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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